

International groups denounce US mining company's multi-million dollar claim against Guatemala and express solidarity with communities peacefully defending land and life at 'La Puya'

The undersigned organizations stand in solidarity with Guatemalan communities in peaceful resistance to Kappes, Cassidy & Associates' (KCA) Progreso VII Derivada gold project as the company brings a US\$300 million arbitration claim against Guatemala to the World Bank's International Centre for Settlement of Investment Disputes (ICSID) over alleged violations of the Dominican Republic-Central America Free Trade Agreement (CAFTA-DR).

- We join in solidarity with the residents of San Pedro Ayampuc and San José del Golfo who are deeply concerned about the grave threat the mine poses to water supplies, ecosystems and the quality of life in the area.
- We express our dismay at how this suit represents a further attack on Guatemala's judicial system. The Constitutional Court is already under pressure as a result of President Morales' decision to defy the Court's ruling and expel the UN-backed anti-corruption and anti-impunity body, the International Commission Against Impunity in Guatemala (CICIG by its initials in Spanish).
- We call on KCA and the Guatemalan government to refrain from intimidating the Constitutional Court justices and that the cases currently before them be allowed to play out and that decisions be made based on the rule of law. As part of this, we call on KCA to drop its suit.
- We call for the immediate demilitarization of the region, specifically the municipality of San José de Golfo where the military has been deployed since January 2018, roughly one month after KCA filed its case.
- We also support the call from the Peaceful Resistance of 'La Puya' that CAFTA-DR be declared detrimental to the wellbeing of the Guatemalan people and denounced as allowed by the Guatemalan Political Constitution, further considering that Guatemala has already had to pay \$32.4 million dollars to two US companies (RDV and TECO) and is currently subject to other arbitration claims for hundreds of millions of dollars.

Background:

Since 2012, the communities of San José del Golfo and San Pedro Ayampuc have denounced the potential environmental and health impacts of the mine, as well as the violent imposition of the project against their will. For years they have maintained the peaceful encampment, known as 'La Puya', and have resisted repeated eviction attempts, suffering repression by state and private security forces. Despite an ongoing campaign of criminalization and defamation, and a renewed military presence in the region, the around-the-clock resistance camp continues today.

In 2016, Guatemala's Supreme Court suspended KCA's operations over failure to consult with Indigenous people in the area, which the Ministry of Energy and Mines and the company have appealed to the Constitutional Court. Instead of respecting Guatemala's democratic and judicial processes, KCA has filed this claim, which in effect pressures the government to restart the mine, or otherwise pay the company hundreds of millions of dollars in lost potential profits.

CAFTA-DR, like thousands of other international investment agreements, gives transnational companies binding recourse to a perverse international arbitration system known as Investor State Dispute Settlement (ISDS). ISDS claims are heard in tribunals such as ICSID and have been widely condemned for privileging corporate interests

at the expense of local communities and the environment, while bypassing national courts and undermining the decisions of sovereign nations. Tribunals like ICSID are not courts of law, but rather secretive panels of highly-paid corporate lawyers who have no obligation to respect precedent of any sort in their decisions.

KCA is one of a growing number of transnational mining companies that have been launching malicious lawsuits against countries, especially in the Global South, in order to extract sizeable monetary awards. Even though they have failed to obtain community consent or the required permits to operate, companies allege a loss of investment as the basis for filing these suits. In KCA's case, owner Daniel Kappes and the company's legal representatives in Guatemala are currently under criminal investigation in Guatemala for illegally operating the mine, ignoring the initial court order suspending operations for lack of consultation. In their December 19, 2018 press release, the Peaceful Resistance of 'La Puya' also clarifies that the company never obtained a valid construction license.

We join in solidarity with the residents of San Pedro Ayampuc and San José del Golfo who are deeply concerned about the grave threat the mine poses to water supplies, ecosystems and the quality of life in the area. In particular, we echo their condemnation of the failure of KCA and the state to credibly evaluate the impact that the gold project would have on water supplies in a region with high levels of naturally-occurring arsenic.

We express our dismay at how this suit represents a further attack on Guatemala's judicial system. The Constitutional Court is already under pressure as a result of President Morales' decision to defy the Court's ruling and expel the UN-backed anti-corruption and anti-impunity body, CICIG. In related remarks, President Morales also chastised the Constitutional Court for suspending mining and hydroelectric projects, as it has done in the case of KCA and others for violations of Indigenous rights, calling it an "abuse of their role." We call on KCA and the Guatemalan government to refrain from intimidating the Constitutional Court justices and that the cases currently before them be allowed to play out and that decisions be made based on the rule of law.

Undoubtedly, this corporate assault comes at a delicate moment in Guatemala and has the potential to further erode democratic institutions and the rule of law. On January 28, the Peaceful Resistance of la Puya held a press conference to denounce the presence of military personnel in San José del Golfo out of concern that their presence is intended to intimidate and provoke communities in resistance into thinking the mining company is back as a result of the international arbitration claim. The military has been deployed to the region since January 11th; one month after KCA filed its claim. We call for the immediate demilitarization of the area.

We also support the call from the Peaceful Resistance of 'La Puya' that CAFTA-DR be declared detrimental to the wellbeing of the Guatemalan people and denounced as allowed by the Guatemalan Political Constitution, further considering that Guatemala has already had to pay \$32.4 million dollars to two US companies (RDV and TECO) and is currently subject to other arbitration claims for hundreds of millions of dollars.

Endorsers:

AUSTRALIA

1. Australian Fair Trade and Investment Network (AUSTRALIA)
2. Rainforest Action Group (AUSTRALIA)
3. Maritime Union of Australia
4. Maritime Union Queensland Branch
5. Maritime Union of Australia Southern NSW Branch

AFRICA

1. Anywaa Survival Organisation-ASO (ETHIOPIA)
2. Collectif pour la Défense des Terres Malgaches - TANY (MADAGASCAR)
3. Fédération Nationale du Secteur Agricole (MAROC)
4. Ogiek Peoples Development Program(OPDP)(KENIA)
5. OrganizationActions pour le Développement Communautaire (BURUNDI)

ASIA

1. ALTSEAN-Burma
2. AMIHAN NATIONAL FEDERATION OF PEASANT WOMEN(Philippines)
3. Campaign for Peace & Democracy (Manipur) (INDIA)
4. Center for Environmental Concerns-Philippines
5. Centre for Research and Advocacy, Manipur (INDIA)
6. Community Resource Centre Foundation (CRC)(THAILAND)
7. JATAM (Indonesia)
8. Indigenous Peoples Movement for Self-Determination and Liberation (IPMSDL)(PHILIPPINES)
9. Kalikasan People's Network for the Environment (PHILIPPINES)
10. Many Hands One Nation - MAHON (EAST TIMOR)
11. Mines Minerals & People (INDIA)
12. NGO Federation of Nepal (NEPAL)
13. People's Coalition on Food Sovereignty (PCFS) (PHILIPPINES)
14. We Women Lanka Network (SRI LANKA)
15. WomanHealth Philippines

CANADA

1. Atlantic Regional Solidarity Network (CANADA)
2. BC CASA/Cafe Justicia
3. Breaking the Silence (CANADA)
4. Canadian Center for Policy Alternatives (CCPA)
5. Canadian Jesuits International (CANADA)
6. Common Frontiers (CANADA)
7. Comité por los Derechos Humanos en América Latina (CDHAL)(CANADA)
8. Consensus Multimedia (CANADA)
9. Council of Canadians (CANADA)
10. Education In Action (CANADA)
11. Justice Team of Esquimalt United Church
12. Louis Riel Bolivarian Circle (CANADA)
13. Mining Injustice Solidarity Network (MISN) (CANADA)
14. Mining Justice Action Committee (CANADA)
15. Mining Justice Alliance (CANADA)
16. MiningWatch Canada
17. Projet Accompagnement Québec-Guatemala (CANADA)
18. People's Health Movement Extractive Industries Working Group (CANADA)
19. RightOnCanada (CANADA)
20. St James United Church Social Justice Committee (CANADA)
21. Socialist Action (CANADA)
22. Trade Justice Network (CANADA)
23. Inter Pares (CANADA)

24. United Steelworkers (CANADA)

EUROPE

1. Action Solidarité Tiers Monde (LUXEMBURGO)
2. Amazon Charitable Trust(UK)
3. Amis de la Terre (Friends of the Earth France)
4. Adveniat (GERMANY)
5. Both Ends(NETHERLANDS)
6. CAREA e.V (GERMANY)
7. CETRI Centre Tricontinental (BELGIQUE)
8. Christian Initiative Romero (CIR)(GERMANY)
9. Colectivo CADEHO (ALEMANIA)
10. Corporate Europe Observatory (BELGIUM)
11. DKA Austria
12. Ecologistas en Acción (SPAIN)
13. Environmental Justice Atlas (EJAtlas)(SPAIN)
14. Ekologistak Martxan(Euskal Herria - País vasco)
15. Environmental Network for Central America (ENCA)(UK)
16. Estonian Forest Aid (Eesti Metsa Abiks) (ESTONIA)
17. FIAN Austria
18. FIAN International (GERMANY)
19. Friends of the Earth Germany
20. Friends of the Earth Northern Ireland
21. Frères des Hommes (BELGIQUE)
22. Fundación ALBOAN (ESPAÑA)
23. Guatemala Solidarität Österreich (AUSTRIA)
24. HondurasDelegation (GERMANY)
25. Jordens Vänner (Friends of the Earth Sweden)
26. Latin America Solidarity Centre (IRELAND)
27. London Mining Network (UK)
28. Medico International (GERMANY)
29. Ongd AFRICANDO(SPAIN)
30. Plataforma de solidaridad con Guatemala de Barcelona (SPAIN)
31. Red de Solidaridad con Guatemala en Zürich (NETHERLANDS)
32. Rural Women's Association Alga (KYRGYZTAN)
33. Salva la Selva (SPAIN)
34. Save Our Sperrins (SOS)(NORTHERN IRELAND)
35. Terra SOS-tenible (ESPANA)
36. The Gaia Foundation (UK)
37. Tranform (AUSTRIA)
38. Trócaire (IRELAND)
39. Védegylet Egyesület (HUNGARY)
40. War on Want (UK)

LATIN AMERICA

1. ActionAid Guatemala
2. Acción Colectiva (MEXICO)

3. Acción ecológica(ECUADOR)
4. Alianza de Comunidades en Defensa de los Ríos Bobos-Nautla y Tecolutla, A. C.(MEXICO)
5. ALuna Acompañamiento Psicosocial (MEXICO)
6. Amigos de la Tierra Argentina
7. Amigos de la Tierra América LATina y el Caribe -ATALC
8. ASEDUCA (El Salvador)
9. Asociación de Campesinos Agroecológicos de Intag (ECUADOR)
10. Asociación de Productores Bananeros Orenses (ECUADOR)
11. Asociación para el Desarrollo Socio Económico de El Salvador (ADES) (ELSALVADOR)
12. Asociación para la Promoción y el Desarrollo de la Comunidad (CEIBA)(GUATEMALA)
13. ASOSEPRODI (GUATEMALA)
14. Bunko Papalote A.C(MEXICO)
15. Bios Iguana A.C.(MEXICO)
16. Caminantes (ECUADOR)
17. CÁRITAS Verapaz (GUATEMALA)
18. CECON(GUATEMALA)
19. Centro de Apoyo Solidario, Documentación y Estudio, A.C. (MEXICO)
20. Centro Ecuménico de Derechos Humanos (CEDHU) (ECUADOR)
21. Centro de Estudios Aplicados en Ecología y Sustentabilidad Ambiental (EL SALVADOR)
22. Centro de Documentación en Derechos Humanos "Segundo Montes Mozo S.J." (CSMM)(ECUADOR)
23. Centro de Estudios Ecuménicos a.c.(MEXICO)
24. Centro Humboldt (NICARAGUA)
25. Centro Integral de Base CEIBA (MEXICO)
26. Centro de Investigación y Educación Popular, CINEP(COLOMBIA)
27. CESTA Amigos de la Tierra El Salvador
28. Coecoceiba-Amigos de la Tierra Costa Rica
29. Colectivo Madreselva (GUATEMALA)
30. Colectivo Voces Ecológicas COVEC(PANAMA)
31. Comaletzin, A. C. (MEXICO)
32. Comisión Ecuménica de Derechos Humanos (ECUADOR)
33. Comité Ambiental en Defensa de la Vida (COLOMBIA)
34. Consejo de defensa de los Queñes(CHILE)
35. Consejo de Educación Popular de América Latina y el Caribe (COSTA RICA)
36. Consejo de Investigaciones en Desarrollo (GUATEMALA)
37. Cooperación (PERU)
38. Corporación SOS Ambiental (COLOMBIA)
39. CRIPDES (EL SALVADOR)
40. Decoin- Defensa y Conservación Ecológica de Intag (ECUADOR)
41. Desarrollo Económico y Social de Los Mexicanos Indígenas, A.C. (MEXICO)
42. Equipo de Estudios Comunitarios y Acción Psicosocial - ECAP(GUATEMALA)
43. FOA dirección de Territorios (ECUADOR)
44. FOCO Foro Ciudadano de Participación por la Justicia y los Derechos Humanos (ARGENTINA)
45. Foro de Organizaciones No Gubernamentales Internacionales en Guatemala - FONGI (GUATEMALA)
46. Fundación Chile Sustentable Publicación "Lucha Indígena"(PERU)
47. Fundación para la Nutrición y Servicios de Salud Integral del Ecuador (FUNSSIEC) (ECUADOR)
48. Fundación Savia Roja (ECUADOR)
49. GeoComunes (MEXICO)
50. Grupo Kanaka (MEXICO)
51. Grupo Tacuba (MEXICO)

52. IDAMHO Instituto de Derecho Ambiental de Honduras
53. Instituto Mexicano para el Desarrollo Comunitario (IMDEC)(MEXICO)
54. ISP-Costa Rica
55. Kolektif Jistis Min(KJM)(HAITI)
56. Movimiento de defensa del agua, la tierra y el medioambiente MODATIMA(CHILE)
57. Movimiento Ecologista de Mujeres del Sur (ECUADOR)
58. Movimiento Nacional Ambientalista Frente a la Minería Industrial (NICARAGUA)
59. Movimiento Morelense contra las Concesiones de Minería a Tajo Abierto por Metales (MEXICO)
60. Mujeres Transformando el Mundo (MEXICO)
61. Observatorio Latinoamericano de Conflictos Ambientales (CHILE)
62. Otras Voces por la Tierra(URUGUAY)
63. OTROS MUNDOS AC/CHIAPAS (MEXICO)
64. Parlamento de los Pueblos Indígenas del Chaco Americano y Misiones(ARGENTINA)
65. Plataforma Global El Salvador
66. Procesos Integrales para la Autogestión de los Pueblos (MEXICO)
67. Protection International Mesoamérica (GUATEMALA)
68. Qanil (GUATEMALA)
69. Red de Escuelas de Agroecología del Sur por la Soberanía Alimentaria y en Defensa de la Naturaleza (ECUADOR)
70. Red Mexicana de Acción frente al Libre Comercio (RMALC)(MEXICO)
71. Red Mexicana de Afectadas y Afectados por la Minería (REMA)
72. Resistencia pacífica La Puya (GUATEMALA)
73. SERCOBA (EL SALVADOR)
74. Servicios Jurídicos y Sociales SERJUS (GUATEMALA)
75. Servicios para una educación alternativa A.C.(MEXICO)
76. The Democracy Center (BOLIVIA)
77. UNBC Guatemala Research Group
78. YASunidxs Cuenca (ECUADOR)

UNITED STATES

1. ALIANZAS of Unitarian Universalist Church of Arlington (USA)
2. American Federation of Labor and Congress of Industrial Organizations (AFL-CIO)
3. Center for International Environmental Law (CIEL)
4. Citizens Trade Campaign
5. Chicago -Cinquera Sister Cities Committee (USA)
6. Chicago-Guatemala Partnership (USA)
7. Chicago Religious Leadership Network on Latin America (USA)
8. Committee in Solidarity with the People of El Salvador (CISPES)(USA)
9. Cooperation Operation (USA)
10. Crawford School (USA)
11. Denver Justice and Peace Committee (USA)
12. Doctors For Global Health (USA)
13. Earthworks (USA)
14. Environment Defenders Advocacy (USA)
15. FOCUS Central America (USA)
16. Food First (USA)
17. Forum Nobis PLLC (USA)
18. Global Exchange (USA)

19. Guatemala Human Rights Commission (GHRC-USA)
20. Guatemala Partnership Committee, Congregational Church of Needham (USA)
21. Harvard Immigration and Refugee Clinical Program / Greater Boston Legal Services (HIRC/GBLS) (USA)
22. Heal Together Wellness Services
23. Institute for Agriculture and Trade Policy (USA)
24. Institute for Policy Studies – Global Economy Project
25. Latin America Task Force of Interfaith Council for Peace & Justice (USA)
26. Latin America Working Group (USA)
27. Madison Arcatao Sister City Project (USA)
28. National Lawyers Guild International Committee (USA)
29. National Lawyers Guild, Los Angeles (USA)
30. Network in Solidarity with the People of Guatemala (NISGUA)
31. Occupy Bergen County (N.J.)(USA)
32. Progressive Leadership Alliance of Nevada (PLAN)
33. Public Citizen's Global Trade Watch (USA)
34. Rights Action (USA)
35. Santa Elena Project of Accompaniment (USA)
36. SERR (USA)
37. SHARE FOUNDATION (USA)
38. Sisters of Mercy of the Americas' Institute Justice Team (USA)
39. Sister Parish of First United Methodist Church, Decorah IA (USA)
40. Sister Parish Inc. (USA)
41. US. - El Salvador Sister Cities (USA)
42. Washington Ethical Society / Global Connections
43. Washington Office on Latin America (WOLA)

INTERNATIONAL

1. Alianza Centroamericana Frente a la Minería (ACAFREMIN)
2. Asia Pacific Network of Environment Defenders (APNED)
3. CIDSE
4. Focus on the Global South
5. Grupo de Trabajo Clacso ""Cuerpos, territorios y feminismos"
6. Indigenous Peoples Movement for Self-determination and Liberation (IPMSDL)
7. International Allies against Mining in El Salvador
8. JASS (Just Associates)
9. Movimiento Mesoamericano contra el Modelo extractivo Minero M4
10. Observatorio de Conflictos Mineros de América Latina (OCMAL)
11. Peoples Coalition on Food Sovereignty
12. Plataforma Internacional contra la Impunidad
13. Red Latinoamericana de Mujeres Defensoras de Derechos Sociales y Ambientales
14. Red Vigilancia Interamericana para la Defensa y Derecho al Agua
15. SICSAL, Servicio Internacional Cristiano de Solidaridad con America Latina -- Oscar Arnulfo Romero
16. Transnational Institute (TNI)
17. WRM - Movimiento Mundial por los Bosques (International)